

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

DONALD SHARP,

Plaintiff,

vs.

No. CV 21-00831 RB/KK

N.M. SECRETARY OF STATE, and
MAGGIE OLIVER,

Defendant.

MEMORANDUM OPINION AND ORDER OF DISMISSAL

THIS MATTER is before the Court *sua sponte* under Federal Rule of Civil Procedure 41(b) on the handwritten Civil Complaint filed by Plaintiff Donald Sharp. (Doc. 1.) The Court will dismiss the Complaint without prejudice for failure to comply with Court orders, statutes, and rules, and failure to prosecute this proceeding.

Sharp filed his Complaint on August 25, 2021. (*Id.*) He did not pay the filing fee or submit an application to proceed *in forma pauperis* at the time he filed the Complaint. The Court entered an Order to Cure Deficiencies on August 26, 2021, directing Sharp to cure deficiencies in his filing and to either pay the filing fee or submit an application to proceed under 28 U.S.C. § 1915 within 30 days of entry of the Order. (Doc. 2.) The Court also twice provided Sharp with a form Application to Proceed in District Court Without Prepayment of Fees or Costs on August 27, 2021, and October 6, 2021. (*See* Docket entries.) The Order advised Sharp that if he failed to cure the deficiency within the 30-day time period, the Court could dismiss this proceeding without further notice. (Doc. 2 at 2.)

Sharp did not comply with the Court's August 26, 2021 Order. Instead, on October 18, 2021, he submitted an Objection to Order to Cure (Doc. 5.) Sharp's Objection did not address the deficiencies in his filing as requested in the Order to Cure Deficiencies. Instead, his Objection made numerous statements attacking the assigned Magistrate Judge and demanded that this and other cases be transferred to the Pentagon. (*Id.*)

The Court notes that Sharp has filed a number of civil cases with the Court under the names Tommy Sharp, Donald Sharp, Donald Thomas Sharp, and Donald Tommy Sharp.¹ He is presently under filing restrictions imposed by the Court due to his lengthy and abusive litigation history. *See Sharp v. New Mexico*, CV 21-00700 WJ/SMV, Mem. Op. & Order (D.N.M. Oct. 15, 2021).

More than four months have elapsed since entry of the Court's Order to Cure Deficiency and almost three months have passed since Sharp filed his October 18, 2021 Objection. Sharp has not paid the \$400 filing fee or submitted an application to proceed under § 1915 in proper form. As Sharp has been advised, regardless of whether his Civil Complaint is treated as a RICO Act claim or a civil rights case, it is a civil action and under 28 U.S.C. §§ 1914(a) and 1915(a), and the Court is required to collect the filing fee from Sharp or authorize him to proceed without prepayment of the fee. Sharp has failed to either pay the \$400.00 filing fee or submit an application to proceed under § 1915 in proper form.

¹ *See, e.g., Sharp v. Core Civic*, CV 21-00820 WJ/JFR; *Sharp v. U.S. Fed. Pub. Defenders Office*, CV 21-00819 JB/CG; *Sharp v. Lea Cnty. Sheriff*, CV 21-00772 MV/LF; *Sharp v. U.S. House of Representatives*, CV 21-00771 MV/SCY; *Sharp v. Fed. Bureau of Investigation*, CV 21-00770 KWR/SCY; *Sharp v. Gonzales*, CV 21-00769 MV/LF; *Sharp v. U.S. Marshall Service*, CV 21-00721 RB/GJF; *Sharp v. El*, CV 21-00720 KWR/GBW; *Sharp v. Biden*, CV 21-00719 KWR/CG; *Sharp v. Mace, Cibola Cnty. Sheriff*, CV 21-00714 MV/SMV; *Sharp v. City of Edgewood Chief of Police*, CV 21-00712 JB/JHR; *Sharp v. N.M. Bd. of Finance*, CV 21-00711 JB/GBW; *Sharp v. U.S. Supreme Court*, CV 21-00705 JCH/KBM; *Sharp v. Dep't of Justice*, CV 21-704 MV/JFR; *Sharp v. Raysanek*, CV 21-00703 JB/JFR; *Sharp v. New Mexico*, CV 21-00700 WJ/SMV; *Sharp v. Core Civic*, CV 21-00699 KG/GJF; *Sharp v. United States*, CV 21-00698 JB/GBW.

The Court may dismiss a proceeding under Rule 41(b) for failure to comply with statutes or rules of civil procedure or to comply with court orders. *See Olsen v. Mapes*, 333 F.3d 1199, 1204, n.3 (10th Cir. 2003). Therefore, the Court will dismiss this civil proceeding pursuant to Rule 41(b) for failure to comply with 28 U.S.C. §§ 1914 and 1915, failure to comply with the Court's August 26, 2021 Order, failure to comply with federal statutes, and failure to prosecute this proceeding.

Also pending before the Court is a proposed form of order submitted by Sharp seeking summary judgment and an award of \$100 million in damages. (Doc. 6.) The Court construes Sharp's submission as a motion for summary judgment. The Court notes that the motion does not comply with the requirements of Federal Rule of Civil Procedure 56 and does not establish that Sharp is entitled to judgment as a matter of law in this case. The Court will deny the motion as moot in light of the dismissal of this case.

IT IS ORDERED

(1) The Order submitted by Plaintiff Donald Sharp (Doc. 6), which the Court construes as a motion for summary judgment, is **DENIED** as moot; and

(2) The Civil Complaint filed by Plaintiff Donald Sharp on August 25, 2021 (Doc. 1) is **DISMISSED** without prejudice under Rule 41(b) for failure to prosecute or to comply with 28 U.S.C. §§ 1914 and 1915 and to comply with the Court's August 26, 2021 Order.



ROBERT C. BRACK
SENIOR U.S. DISTRICT JUDGE